

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PAMELA J. BANNERMAN and U.S. POSTAL SERVICE,
POST OFFICE, Oklahoma City, OK

*Docket No. 00-1508; Submitted on the Record;
Issued June 6, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained nerve damage in her right arm and damage to the knuckle plate in her right index finger in the performance of duty.

On November 1, 1999 appellant, then a 39-year-old part-time distribution and accountables clerk filed a claim for compensation on account of traumatic injury or occupational disease, Form CA-7 and a notice of occupational disease and claim for compensation, Form CA-2 alleging that she sustained nerve damage in her right arm from her wrist to her shoulder and damage to the knuckle plate in her right index finger, due to distributing plastic-strapped bundles of mail and lifting heavy tubs of mail from GPC's. On the reverse of the Form CA-2, appellant's supervisor did not indicate that appellant stopped working, however, on the Form CA-7 appellant stated that she is claiming a loss of wages from December 2, 1999 to December 2000.

Accompanying her claim, appellant submitted a prescription for physical therapy and a recovery and work status report, dated November 3, 1999, signed by Dr. Houshang Seradge, a Board-certified orthopedic surgeon. Dr. Seradge's notes indicated a diagnosis of cervical radiculopathy and right shoulder impingement. He also indicated that appellant was fit to return to regular work. Dr. Seradge's notes did not address the cause of appellant's condition.

In a November 22, 1999 letter, the Office of Workers' Compensation Programs advised appellant that the information submitted in her claim was not sufficient to determine whether appellant was eligible under the Federal Employees' Compensation Act. Further, the Office advised appellant of the additional medical and factual evidence needed to support her claim. On that date, the Office also sent a letter to the employing establishment, requesting additional information regarding appellant's duties.

In response to the Office's letter, appellant forwarded a personal statement, dated November 30, 1999, detailing her work duties.

By decision dated January 31, 2000, the Office denied appellant's claim. The Office found that there was no medical evidence to substantiate that appellant's medical condition was caused by her federal employment.

The Board finds that appellant has not met her burden of proof in establishing that she sustained nerve damage in her right arm from her wrist to her shoulder and damage to the knuckle plate in her right index finger.

An employee seeking benefits under the Act¹ has the burden of establishing that the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components, which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁴

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁵

In the instant case, there is no dispute that appellant is an employee and that her duties include distributing wrapped bundles of mail. However, there is insufficient medical evidence to establish that this action caused or aggravated a medical condition.

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Elaine Pendleton*, *supra* note 2.

⁵ See 20 C.F.R. § 10.115(a) (1999); *Kathryn Haggerty*, 45 ECAB 383 (1994); *John M. Tornello*, 35 ECAB 234 (1983).

In the instant case, Dr. Seradge's reports indicate that appellant has cervical radiculopathy and right shoulder impingement. However, appellant has submitted no medical evidence that any cervical or other condition is due to factors of her employment. Dr. Seradge did not address the cause of appellant's condition. On November 22, 1999 the Office advised appellant of the type of medical and factual evidence needed to establish her claim. However, such evidence was not submitted.

As noted above, part of appellant's burden of proof includes the submission of medical evidence establishing that the claimed condition is causally related to employment factors. As appellant has not submitted such evidence, she has not met her burden of proof in establishing her claim.

The January 31, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
June 6, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member